

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

AMERICAN CONTRACTORS INDEMNITY,

Plaintiff,

v.

Case Number 11-10894

Honorable Thomas L. Ludington

QUALITY ASBESTOS et al.,

Defendants/Third-Party Plaintiffs,

v.

RAFE ST. PETER,

Third-Party Plaintiff.

ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS/THIRD-PARTY PLAINTIFFS' MOTION TO EXTEND SHOW CAUSE PERIOD

On March 7, 2011, Plaintiff American Contractors Indemnity filed a complaint against Defendants/Third-Party Plaintiffs Quality Asbestos & Demolition Services, LLC; Quality Built Pole Buildings, LLC; Quality Asbestos Abatement Services, LLC; TNS Equipment Leasing, Inc.; Thomas L. Vermeesch, in his individual capacity; and Thomas L. Vermeesch, doing business as Vermeesch Construction.

On June 9, 2012, Defendants/Third-Party Plaintiffs filed a third-party complaint against Third-Party Defendant Rafe St. Peter. On July 5, 2012, the clerk entered default against Third-Party Defendant, who answered the third-party complaint the same day. No action on the third-party complaint has been taken since.

On May 11, 2012, this Court entered an opinion and order granting Plaintiff's motion for summary judgment on its claims against Defendants/Third-Party Plaintiffs. The same day, the Court entered an order directing Defendants/Third-Party Plaintiffs to show cause in writing by

May 18, 2012 why the third-party complaint should not be dismissed for lack of prosecution. On May 18, Defendants/Third-Party Plaintiffs requested entry of default against Third-Party Defendant Rafe St. Peter. Because against Third-Party Defendant had answered, the clerk denied entry of default.

A status conference on the third-party complaint was held on June 25. That day, a scheduling order was entered. In pertinent part, the order scheduled a settlement conference for September 27, 2012, at 4:00 pm. Neither party appeared at the settlement conference. The Court has the inherent power to dismiss a claim sua sponte for failure to prosecute. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–32 (1962).

On September 5, 2012, the Court entered a second show cause order directing Defendants/Third-Party Plaintiffs to show cause in writing on or before October 5, 2012, why the complaint should not be dismissed for failure to prosecute.

On September 5, Defendants/Third-Party Plaintiffs moved for a fourteen day extension to permit them time to file a motion for summary judgment. Defendants have been twice directed to show cause why the case should not be dismissed for failure to prosecute. Under the circumstances, a two week extension is not warranted.

Accordingly, it is **ORDERED** that Defendants/Third-Party Plaintiffs' motion to extend show cause period (ECF No. 78) is **GRANTED IN PART AND DENIED IN PART**.

It is further **ORDERED** that Defendants/Third-Party Plaintiffs are directed to **SHOW CAUSE** in writing on or before October 12, 2012, why the complaint should not be dismissed for failure to prosecute.

Dated: October 5, 2012

s/Thomas L. Ludington
THOMAS L. LUDINGTON

United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 5, 2012.

s/Amanda Chubb for Tracy A. Jacobs
TRACY A. JACOBS